

In accordance with C.F.R. 1.63(d)(iv), the attached Declaration is to be used for the instant continuation application: Clostridial Toxin Disease Therapy

TB299228721US

Serial No: Filed: September 15, 2003

Attorney Docket No.: OPHD-08258

Docket No.: OPHD-00408

DECLARATION FOR PATENT APPLICATION Express Mail Label No.: EV329482611US

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name. I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

CLOSTRIDIAL TOXIN DISEASE THERAPY

the specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claim
Yes No

Number Country Day/Month/Year Filed

Number Country Day/Month/Year Filed

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Ser. No. Filing Date Status: Patented, Pending, Abandoned

Application Ser. No. Filing Date Status: Patented, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first joint inventor: SEAN B. CARROLL, Ph.D.

Inventor's signature:

Sean B. Carroll

12/2/92
Date

Residence: 3066 Streb Way, Cottage Grove, Wisconsin 53527

Citizenship: U.S.A.

Post Office Address: 3066 Streb Way, Cottage Grove, Wisconsin 53527

Full name of second joint inventor: MARGARET B. van BOLDRIK, Ph.D.

Inventor's signature:

Margaret van Boldrik

12/2/92
Date

Residence: 3066 Streb Way, Cottage Grove, Wisconsin 53527

Citizenship: U.S.A.

Post Office Address: 3066 Streb Way, Cottage Grove, Wisconsin 53527

Full name of third joint inventor: CHRISTOPHER M. CLEMENS

Inventor's signature:

Christopher M. Clemens

12-02-92
Date

Residence: 101 Wolf Street, Madison, Wisconsin 53717

Citizenship: U.S.A.

Post Office Address: 101 Wolf Street, Madison, Wisconsin 53717

Please use the attached assignment which is from
a parent application for the instant continuation
application: Clostridial Toxin Disease Therapy
Serial No.: Filed: September 15, 2003
Attorney Docket No.: OPHD-08258
Express Mail Label No.: EV329482611US



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APRIL 05, 2001

PTAS



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MEDLEN & CARROLL, LLP
PETER G. CARROLL
220 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CALIFORNIA 94104

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF
THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS
AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER
REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE
INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA
PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD
FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY
CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723.
PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE,
ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY,
SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/19/2001

REEL/FRAME: 011449/0759
NUMBER OF PAGES: 6

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

OPHIDIAN PHARMACEUTICAL

DOC DATE: 11/16/2000

ASSIGNEE:

PROMEGA CORPORATION
2800 WOODS HOLLOW ROAD
MADISON, WISCONSIN 53711

SERIAL NUMBER: 08304602
PATENT NUMBER:

FILING DATE: 09/12/1994
ISSUE DATE:

SERIAL NUMBER: 08474570
PATENT NUMBER:

FILING DATE: 06/06/1995
ISSUE DATE:

SERIAL NUMBER: 08810908
PATENT NUMBER:

FILING DATE: 03/05/1997
ISSUE DATE:

SERIAL NUMBER: 08869881
PATENT NUMBER:

FILING DATE: 06/05/1997
ISSUE DATE:

RECEIVED

APR 10 2001

MEDLEN & CARROLL

SERIAL NUMBER: 08915136
PATENT NUMBER:

FILING DATE: 08/20/1997
ISSUE DATE:

SERIAL NUMBER: 08957310
PATENT NUMBER:

FILING DATE: 10/23/1997
ISSUE DATE:

SERIAL NUMBER: 09084517
PATENT NUMBER:

FILING DATE: 05/26/1998
ISSUE DATE:

SERIAL NUMBER: 09095536
PATENT NUMBER:

FILING DATE: 06/10/1998
ISSUE DATE:

SERIAL NUMBER: 09095535
PATENT NUMBER:

FILING DATE: 06/10/1998
ISSUE DATE:

SERIAL NUMBER: 09318109
PATENT NUMBER: 6214343

FILING DATE: 05/24/1999
ISSUE DATE: 04/10/2001

SERIAL NUMBER: 09325825
PATENT NUMBER:

FILING DATE: 06/04/1999
ISSUE DATE:

SERIAL NUMBER: 09334477
PATENT NUMBER:

FILING DATE: 06/16/1999
ISSUE DATE:

SERIAL NUMBER: 09429511
PATENT NUMBER:

FILING DATE: 10/28/1999
ISSUE DATE:

SERIAL NUMBER: 09587198
PATENT NUMBER:

FILING DATE: 06/05/2000
ISSUE DATE:

SERIAL NUMBER: 07429791
PATENT NUMBER: 5196193

FILING DATE: 10/31/1989
ISSUE DATE: 03/23/1993

SERIAL NUMBER: 07977583
PATENT NUMBER: 5340923

FILING DATE: 11/17/1992
ISSUE DATE: 08/23/1994

SERIAL NUMBER: 08044631
PATENT NUMBER: 5466672

FILING DATE: 04/08/1993
ISSUE DATE: 11/14/1995

SERIAL NUMBER: 08072064
PATENT NUMBER: 6008046

FILING DATE: 06/02/1993
ISSUE DATE: 12/28/1999

SERIAL NUMBER: 08129027
PATENT NUMBER: 5605691

FILING DATE: 09/29/1993
ISSUE DATE: 02/25/1997

SERIAL NUMBER: 08169701
PATENT NUMBER: 5545721

FILING DATE: 12/17/1993
ISSUE DATE: 08/13/1996

SERIAL NUMBER: 08161907
PATENT NUMBER: 5601823

FILING DATE: 12/02/1993
ISSUE DATE: 02/11/1997

SERIAL NUMBER: 08275304
PATENT NUMBER: 5443976

FILING DATE: 07/14/1994
ISSUE DATE: 08/22/1995

011449/0759 PAGE 3

SERIAL NUMBER: 08442000
PATENT NUMBER: 5904922

FILING DATE: 05/16/1995
ISSUE DATE: 05/18/1999

SERIAL NUMBER: 08457890
PATENT NUMBER: 5719267

FILING DATE: 06/01/1995
ISSUE DATE: 02/17/1998

SERIAL NUMBER: 08456847
PATENT NUMBER: 5762934

FILING DATE: 06/01/1995
ISSUE DATE: 06/09/1998

SERIAL NUMBER: 08457048
PATENT NUMBER: 5814477

FILING DATE: 06/01/1995
ISSUE DATE: 09/29/1998

SERIAL NUMBER: 08480604
PATENT NUMBER: 5736139

FILING DATE: 06/07/1995
ISSUE DATE: 04/07/1998

SERIAL NUMBER: 08816977
PATENT NUMBER: 6080400

FILING DATE: 03/13/1997
ISSUE DATE: 06/27/2000

SERIAL NUMBER: 08760903
PATENT NUMBER: 5998381

FILING DATE: 12/06/1996
ISSUE DATE: 12/07/1999

SAUNDRA BALLENGER, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

Please use the attached assignment which is from a parent application for the instant continuation application: Clostridial Toxin Disease Therapy
Serial No.: Filed: September 15, 2003
Attorney Docket No.: OPHD-08258
Express Mail Label No.: EV329482611US



01-29- 101



PATENT
cket No.: OPHD-03127

101597096

Form PTO-1595

INFORMATION FORM COVER SHEET

U.S. Department of Commerce
Patent and Trademark Office

PATENTS ONLY

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

OPHIDIAN PHARMACEUTICAL
6320 Monona Drive, Ste. 414
Madison, WI 53716

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):

PROMEGA CORPORATION
2800 Woods Hollow Road
Madison, WI 53711

Additional name(s) & address(es) attached? No

3. Nature of conveyance:

Assignment
Execution Date: November 16, 2000

4. Application number(s) or patent number(s):

A. Patent Application No.(s):

See Attached "Table of Patents
and Applications"

B. Patent No.(s):

See Attached "Table of Patents
and Applications"

Additional numbers attached? No

5. Name and address of party to whom correspondence concerning document should be mailed:

Peter G. Carroll
MEDLEN & CARROLL, LLP
220 Montgomery Street, Suite 2200
San Francisco, California 94104

6. Total number of applications and patents involved:
30

7. Total fee(s):

Check(s) in the amount of \$1,200 enclosed (\$40 for each recordation).

8. Deposit Account Authorization:

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 08-1290. An originally executed duplicate of this transmittal is enclosed for this purpose.

01/29/2001 DBYRNE 00000034 5196193

01 FC:581

1200.00 OP

DO NOT USE THIS SPACE

9. Statement and Signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Date: January 16, 2001

Signature:

Name: Jason R. Bond

Reg. No.: 45,439

Total number of pages including cover sheet, attachments, and document: 4

Please use the attached assignment for the instant
continuation application: **Clostridial Toxin
Disease Therapy**

Serial No.: Filed: September 15, 2003

Attorney Docket No.: OPHD-08258

Express Mail Label No.: EV329482611US



PATENT

Attorney Docket No.: **OPHD-03127**

TABLE of PATENTS and APPLICATIONS

| Registration No. | Issue Date | Serial No. | Filing Date | Docket No. |
|------------------|------------|------------|-------------|------------|
| 5,196,193 | 03/23/93 | 07/429,791 | 10/31/89 | OPHD-00073 |
| 5,340,923 | 08/23/94 | 07/977,583 | 11/17/92 | OPHD-00457 |
| 5,466,672 | 11/14/95 | 08/044,641 | 04/08/93 | OPHD-00565 |
| 6,008,046 | 12/28/99 | 08/072,064 | 06/02/93 | OPHD-00596 |
| 5,605,691 | 02/25/97 | 08/129,027 | 09/27/93 | OPHD-00712 |
| 5,545,721 | 08/31/96 | 08/169,701 | 12/17/93 | OPHD-00748 |
| 5,601,823 | 02/11/97 | 08/161,907 | 12/02/93 | OPHD-00785 |
| 5,443,976 | 08/22/95 | 08/275,304 | 07/14/94 | OPHD-01048 |
| 5,904,922 | 05/18/99 | 08/442,000 | 05/16/95 | OPHD-01645 |
| 5,719,267 | 02/17/98 | 08/457,890 | 06/01/95 | OPHD-01659 |
| 5,762,934 | 06/09/98 | 08/456,847 | 06/01/95 | OPHD-01761 |
| 5,814,477 | 09/29/98 | 08/457,048 | 06/01/95 | OPHD-01762 |
| 5,736,139 | 04/07/98 | 08/480,604 | 06/07/95 | OPHD-01763 |
| 6,080,400 | 06/27/00 | 08/816,977 | 03/13/97 | OPHD-02450 |
| 5,998,381 | 12/07/99 | 08/305,411 | 09/13/94 | OPHD-02557 |
| | | 08/304,602 | 09/12/94 | OPHD-01145 |
| | | 08/474,570 | 06/06/95 | OPHD-01658 |
| | | 08/810,908 | 03/05/97 | OPHD-02701 |
| | | 08/869,881 | 06/05/97 | OPHD-02874 |
| | | 08/915,136 | 08/20/97 | OPHD-02957 |
| | | 08/957,310 | 10/23/97 | OPHD-03047 |
| | | 09/084,517 | 05/26/98 | OPHD-03127 |
| | | 09/095,536 | 06/10/98 | OPHD-03282 |
| | | 09/095,535 | 06/10/98 | OPHD-03362 |
| | | 09/318,109 | 05/24/99 | OPHD-03555 |

Please use the attached assignment which is from
a parent application for the instant continuation
application: **Clostridial Toxin Disease Therapy**
Serial No.: Filed: September 15, 2003
Attorney Docket No.: OPHD-08258
Express Mail Label No.: EV329482611US



PATENT
Attorney Docket No.: **OPHD-03127**

| Registration No. | Issue Date | Serial No. | Filing Date | Docket No. |
|------------------|------------|------------|-------------|------------|
| | | 09/325,825 | 06/04/99 | OPHD-03760 |
| | | 09/334,477 | 06/16/99 | OPHD-03795 |
| | | 09/429,511 | 10/28/99 | OPHD-03898 |
| | | 09/587,198 | 06/05/00 | OPHD-04445 |
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Please use the attached assignment which is from
a parent application for the instant continuation
application: Clostridial Toxin Disease Therapy
Serial No.: Filed: September 15, 2003
Attorney Docket No.: OPHD-08258
Express Mail Label No.: EV329482611US

PATENT
Attorney Docket No.: OPHD-03127

ASSIGNMENT

"ASSIGNOR" - OPHIDIAN PHARMACEUTICALS, INC., 6320 Monona Drive, Ste. 414, Madison, Wisconsin, 53716.

"ASSIGNEE" - PROMEGA CORPORATION, 2800 Woods Hollow Road, Madison, Wisconsin, 53711.

NOW THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that, for and in consideration of the sum of One Dollar (\$1.00) lawful money paid to ASSIGNOR by ASSIGNEE and other good and valuable consideration (set forth in a separate asset sale agreement executed between ASSIGNEE and ASSIGNOR on November 16, 2000), receipt of which is hereby acknowledged, ASSIGNOR has sold, assigned and transferred unto said ASSIGNEE, and ASSIGNEE's successors and assigns, all right, title and interest in and to the applications for United States Patent, and issued United States Patents listed in the attached TABLE of PATENTS and APPLICATIONS, and any Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, prolongations or extensions thereof, said interest to be held and enjoyed by said ASSIGNEE as fully and exclusively as it would have been held and enjoyed by said ASSIGNOR had this assignment and transfer not been made, to the full end and term of any Patent.

IN TESTIMONY WHEREOF, ASSIGNOR has hereunto signed ASSIGNOR's name to this assignment on the date indicated below.

DATED: 1-16-01

Susan Maynard
Susan Maynard

STATE OF WISCONSIN)
COUNTY OF DANE) ss.

On this 16th day of JANUARY, in the year of 2001, before me, the undersigned notary public, personally appeared the above-named ASSIGNOR, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same.

Mary Ellen Ward
NOTARY PUBLIC

MY COMMISSION EXPIRES

SEAL

9-31-2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sean B. Carroll *et al.*
Serial No.:
Filed: 9-15-03
Entitled: Clostridial Toxin Disease Therapy

Group No.:
Examiner:

POWER OF ATTORNEY BY ASSIGNEE

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Promega Corporation, as Assignee of record of the entire interest of the above-identified patent application, hereby appoints the members of the firm of MEDLEN & CARROLL, LLP, a firm composed of:

| | | | |
|-------------------|-------------------|----------------------|-------------------|
| Jaen Andrews | (Reg. No. 35,051) | David A. Casimir | (Reg. No. 42,395) |
| Tanya A. Arenson | (Reg. No. 47,391) | Maha A. Hamdan | (Reg. No. 43,655) |
| Jason R. Bond | (Reg. No. 45,439) | Thomas C. Howerton | (Reg. No. 48,650) |
| Thomas J. Bordner | (Reg. No. 47,436) | J. Mitchell Jones | (Reg. No. 44,174) |
| Mary Ann D. Brow | (Reg. No. 42,363) | Christine A. Lekutis | (Reg. No. 51,934) |
| Thomas W. Brown | (Reg. No. 50,002) | Virginia S. Medlen | (Reg. No. 32,050) |
| Peter G. Carroll | (Reg. No. 32,837) | David J. Wilson | (Reg. No. 45,225) |

as its attorneys with full power of substitution to prosecute this application and transact all business in the Patent and Trademark Office in connection therewith.

Please direct all future correspondence and telephone calls regarding this application to:

| | |
|---------------------------------|-------------------------|
| Peter G. Carroll | |
| MEDLEN & CARROLL, LLP | |
| 101 Howard Street, Suite 350 | Telephone: 415/904-6500 |
| San Francisco, California 94105 | Facsimile: 415/904-6510 |

I hereby certify that the Assignment document filed with the application or filed subsequent to the filing date of the application, has been reviewed and I hereby certify that, to the best of my knowledge and belief, title is with Promega Corporation.

Dated: _____

By: _____

Name: _____

Title: _____

Promega Corporation
2800 Woods Hollow Road
Madison, Wisconsin 53711